

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

MARLEN RAVELO,
Petitioner,

v.

LE MASTER,
Respondent.

Case No. [17-cv-06498-JD](#)

**ORDER FOR RESPONDENT TO
SHOW CAUSE**

Marlen Ravelo, a federal prisoner, filed a pro se petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2241. He has paid the filing fee.

DISCUSSION

STANDARD OF REVIEW

A district court may entertain a petition for a writ of habeas corpus challenging the execution of a federal sentence only on the ground that the sentence is being executed “in violation of the Constitution or laws or treaties of the United States.” 28 U.S.C. § 2241(c)(3); *United States v. Giddings*, 740 F.2d 770, 772 (9th Cir. 1984).

The court should “award the writ or issue an order directing the respondent to show cause why the writ should not be granted, unless it appears from the application that the applicant or person detained is not entitled thereto.” 28 U.S.C. § 2243. Summary dismissal is appropriate only where the allegations in the petition are vague or conclusory, palpably incredible, or patently frivolous or false. *Hendricks v. Vasquez*, 908 F.2d 490, 491 (9th Cir. 1990) (quoting *Blackledge v. Allison*, 431 U.S. 63, 75-76 (1977)).

LEGAL CLAIMS

Petitioner is incarcerated at Federal Correctional Institution, Dublin. He states that prison

officials informed him that he is not eligible for a reduced sentence if he completes the Residential Drug Abuse Program. Officials informed petitioner that he was convicted of possessing a firearm and the statute does not permit a reduced sentence for such a conviction. As grounds for relief, petitioner asserts that officials violated the statute and intent of congress in denying him a reduced sentence due to the nature of his conviction and by failing to show a valid rationale in the denial. Liberally construed, this claim is sufficient to require a response.

CONCLUSION

1. The Clerk of the Court shall serve a copy of this Order and the petition and all attachments thereto upon respondent and respondent's attorney, the United States Attorney for the Northern District of California. The Clerk shall send a copy of the petition to the Attorney General of the United States in Washington, D.C. The Clerk shall also serve a copy of this Order on petitioner.

2. Respondent shall file with this Court and serve upon petitioner, within fifty-six (56) days of the issuance of this Order, an Answer showing cause why a writ of habeas corpus should not be issued. The respondent shall file with the answer a copy of all documents that are relevant to a determination of the issues presented by the petition.


If petitioner wishes to respond to the answer, he shall do so by filing a traverse with the Court and serving it on respondent within twenty-eight (28) days of his receipt of the answer.

3. Petitioner is reminded that all communications with the Court must be served on respondent by mailing a true copy of the document to respondent's counsel. Petitioner must keep the Court informed of any change of address and must comply with the Court's orders in a timely fashion. Failure to do so may result in the dismissal of this action for failure to prosecute pursuant to Federal Rule of Civil Procedure 41(b). *See Martinez v. Johnson*, 104 F.3d 769, 772 (5th Cir. 1997) (Rule 41(b) applicable in habeas cases).

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IT IS SO ORDERED.

Dated: March 1, 2018



JAMES DONATO
United States District Judge

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

MARLEN RAVELO,
Plaintiff,

v.

LE MASTER,
Defendant.

Case No. [17-cv-06498-JD](#)

CERTIFICATE OF SERVICE


I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on March 1, 2018, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Marlen Ravelo ID: 29871-086
Federal Correctional Institution
5701 8th Street Camp Parks
Dublin, CA 94568

Dated: March 1, 2018

Susan Y. Soong
Clerk, United States District Court

By: 
LISA R. CLARK, Deputy Clerk to the
Honorable JAMES DONATO